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In the

SUPREME COURT OF THE UNITED STATES

October Term, 1970

No. 1592

70-126

WILLIARD RHOADES,

Petitioner,

v.

CALIFORNIA,

Respondent.

Petition for a Writ of Certiorari to the California Court of Appeal, Third District

---

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MISCELLANEOUS

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PETITION FOR A WRIT OF CERTIORARI TO THE CALIFORNIA COURT OF APPEAL, THIRD DISTRICT

Petitioner, Willard Rhoades, respectfully prays that a writ of certiorari be granted to review the judgment and opinion of the California Court of Appeal, Third District, entered in this case on November 5, 1970.

OPINIONS BELOW

The opinion of the Court of Appeal of November 5, 1970, as modified on November 9, 1970, is reported at 12 Cal.App.3d 720 and attached as Appendix A. The opinion of the Appellate Department, California Superior Court for Shasta County is unreported and attached as Appendix B. The judgment of the California Justice Court for the Burney Judicial District is unreported and attached as Appendix C.

JURISDICTION

The judgment of the Court of Appeal was entered on November 5, 1970. The California Supreme Court denied a petition for hearing on January 28, 1971. (A copy of that order is attached as Appendix D.) This petition for a writ of certiorari is thus due on or before April 28, 1971. (American Railway Express Co. v. Levee, 263 U.S. 19 (1923).) Execution of judgment has been stayed pending filing and during consideration of this petition. This court has jurisdiction pursuant to 28 U.S.C. §1254(1).

QUESTIONS PRESENTED

1. Does 18 U.S.C. §1162 authorize enforcement of state land use laws against Indians on Indian reservations?

2. Even if 18 U.S.C. §1162 authorizes enforcement of state land use laws against Indians on Indian reservations, does section 1162 give sufficient warning of that situation to make a criminal prosecution under those state laws compatible with the due process clause of the Fourteenth Amendment?

STATUTES INVOLVED

California Public Resources Code §4291, 18 U.S.C. §1162, and the Fourteenth Amendment to the United States Constitution are set out in Appendix E.

STATEMENT OF THE CASE

Willard Rhoades is an American Indian. His home is on the Big Bend Rancheria, a California Indian reservation[1] which is held in trust by the United States.

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1. A California Indian rancheria is legally indistinguishable from a California Indian reservation. The difference between the two is merely semantic. Opinion M 28958 of the Interior Department Solicitor (1939); Hearings on H.R. 2576, H.R. 2824, H.R. 2838, and H.R. 6364 before the Indian Affairs Subcommittee of the House Committee on Interior and Insular Affairs, 85th Cong., 1st Sess. (1957) at pages 67-68.

In the summer of 1969 the Burney Justice Court convicted Mr. Rhoades of violating Section 4291 of the California Public Resources Code, because he failed to clear the 30 feet closest to his house of all but single specimens of trees and ornamental shrubbery. On August 11, 1969, the justice court imposed sentence after considering a brief by California Indian Legal Services as amicus curiae in support of the defendant. (See Appendix C.) That brief made the same contentions raised in this petition, i.e. 18 U.S.C. §1162 does not authorize California to enforce section 4291 on the rancheria or in the alternative 18 U.S.C. §1162 does not give fair warning that it authorizes enforcement of section 4291.

The same claims were raised by brief on Appeal to the Appellate Department of the Shasta County Superior Court. That court reversed the conviction and held that 18 U.S.C. §1162 does not allow California to enforce section 4291 against an Indian on the Big Bend Rancheria.

Upon petition by the state, the California Court of Appeal granted a transfer on certification. Briefs in support of Mr. Rhoades' position were filed by his counsel and by California Indian Legal Services as amicus curiae. The Court of Appeal held that 18 U.S.C. §1162 authorizes enforcement of section 4291 against an Indian on a reservation and accordingly reversed the Appellate Department of the Shasta County Superior Court.

On January 28, 1971, the California Supreme Court denied Willard Rhoades' petition for a hearing.

REASONS FOR GRANTING THE WRIT

I

WHETHER 18 U.S.C.§1162 AUTHORIZES ENFORCEMENT OF STATE LAND USE LAWS AGAINST INDIANS ON INDIAN RESERVATIONS - - AS THE STATE COURT HELD §1162 DOES - - IS A SUBSTANTIAL FEDERAL QUESTIONS NOT YET DETERMINED BY THIS COURT.

A. States May Not Enforce Their Land Use Laws Against Indians on Indian Reservations Without Express Federal Authorization.

Prior to 1953 the states had no authority to control the use of Indian trust land. (The Effect of County Zoning Ordinances on Land Acquired by the United States in Trust for Indians, 58 I.D. 52 (1942); Applicability of Health and Sanitation Laws of the State of California on Indian Reservations, Opinion M-36768 of the Interior Department Solicitor (2/7/69).) The reasons were twofold. First, state police powers may never interfere with federally sanctioned uses of government property. (58 I.D. 52, supra; Opinion M-36768 of the Interior Department Solicitor, supra.) Second, state laws, in the absence of express federal authorization, may not infringe on "the right of reservation Indians to make their own laws and be ruled by them." (Williams v. Lee, 358 U.S. 217, 220 (1959).) That is, reservation Indians have the right of self government in their own territory. They may accommodate building codes to their poverty and conservation laws to their love of nature. They may even elect to have no regulations at all. (Arizona v. Turtle 413 F.2d 683, 686 (9th Cir. 1969).)

Authorization by federal statute is thus prerequisite to a state's application of its land use laws to Indians on an Indian reservation.

B. 18 U.S.C. §1162 Does Not Give California Authority to Enforce Its Land Use Laws (Such as Public Resources Code §4291) Against An Indian on A Reservation.

In 1953 Congress passed Public Law 280 (67 Stat. 588). Sections 2 and 4 of that law (now 18 U.S.C. §1162 and 28 U.S.C. §1360) made many civil and criminal laws of certain states, including California, applicable in Indian country. However, P.L. 280 also restricted the states' new jurisdiction in several ways.

One restriction in 18 U.S.C. §1162 provides: "Nothing in this section...shall authorize regulation of the use of such property [held in trust by the United States] in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto." In Opinion M-36768, supra, the Interior Department Solicitor ruled that any state regulation of the use of trust property was impermissible under 18 U.S.C. §1162, because such regulation would interfere with the Secretary of the Interior's comprehensive statutory and regulatory responsibilities[2] in the management of trust property. (Opinion M-36768 at 1-3.)

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2. 25. U.S.C. §§81, 86, 123a, 176-182, 184-185, 196, 202, 211, 229, 294, 311-328, 331-358, 371-380, 381-390, 391-415d, 461-462, 463e-465, 466-468, 483-483a; 25 C.F.R. Parts 120, 121, 125, 128, 129, 131, 132, 141, 142, 144, 151-153, 161-163, 171, 172, 203, 242.

As the Solicitor stated:

> "The language of Public Law 280 and its legislative history make quite clear that it was not intended to invest the states with jurisdiction over trust property. This Department consistently has held that the statute furnishes no basis for the application of state or local zoning, construction, or other land use laws, regulations, or standards to trust property. Authority with respect to such property is reposed exclusively in the Federal and tribal governments." (Opinion M-36768 at 2.)

That ruling is consistent with the holding of Warren Trading Post v. Arizona Tax Commission, 380 U.S. 685, that comprehensive federal regulation of Indian traders precludes application of state sales tax laws to their transactions with Indians even in the absence of federal sales tax regulations. That is, state regulation is inconsistent with federal statutes and regulations whenever federal regulation of an area is comprehensive; direct, irreconcilable conflict is not necessary.

Section 4291 of the California Public Resources Code is plainly a state land use law of the type the Interior Department Solicito ruled inconsistent with federal law and unauthorized by 18 U.S.C. §1162. No flamable vegetation can be within 30 feet of a house in mountain and forest areas except "single specimens of trees, ormanental shrubbery, or similar plants," and the State Forester may extend the 30 feet to 100. All dead limbs must be removed from trees, and trees must be cut if they are less than 10 feet from a chimney. In short, section 4291 authorizes

only neat suburban living. Application of section 4291 to Indian reservations is therefore inconsistent with the federal government's occupation of the Indian land use field and unauthorized by 18 U.S.C. §1162.

Moreover, application of section 4291 to unalloted Indian reservations, such as the Big Bend Rancheria, is directly inconsistent with 25 C.F.R. §141.3(a)(5) which provides:

"The following objectives are to be sought in the management of unallotted Indian forest lands in accordance with the principles of sustained yield . . . (5) the preservation of the forest in its natural state wherever it is considered, and the authorized Indian representatives agree, that the recreational or aesthetic value of the forest to the Indians exceeds its value for the production of forest products."

The other restriction in 18 U.S.C. §1162 which bars application of section 4291 in this case provides "nothing in this section shall authorize . . . the encumbrance . . . of any real property . . . that is held in trust by the United States. . . ."

Like all federal Indian laws, this provision must be construed in the way that is most favorable to Indians. (Alaska Pacific Fisheries v. United States, 248 U.S. 78, 89 (1918); Choate v. Trapp, 224 U.S. 665, 675 (1912); United States v. Celestine, 215 U.S. 278, 290 (1909); Arenas v. Preston, 181 F.2d 62, 66 (9th Cir. 1950), cert. denied 340 U.S. 819.)

Thus, Snohomish County v. Seattle Disposal Company, 425 P. 2d 22, 26 (Wash. 1967), cert. denied 389 U.S. 1016, held that an encumbrance,

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Thus, Snohomish County v. Seattle Disposal Company, 425 P. 2d 22, 26 (Wash. 1967), cert. denied 389 U.S. 1016, held that an encumbrance,

within the meaning of P.L. 280,[3] is "any 'burden upon the land depreciative of its value.'" The court there ruled a zoning ordinance to be an encumbrance and refused to enjoin a garbage dump that would have been illegal had the ordinance been applicable on Indian land. The court correctly rejected the contention that the ordinance could be applied because the dump would affect adjoining lands and their inhabitants.

The logic of Snohomish is equally applicable to this case. The restrictions imposed by section 4291 are anathema to Willard Rhoades and other traditional Indians. They prevent such Indians from placing their houses in settings created by nature. They make the land less valuable to Willard Rhoades in both monetary and non-monetary terms. The restrictions of section 4291 are, accordingly, encumbrances, which are not authorized by 18 U.S.C. §1162, even if the state reasonably believes that such restrictions protect people and property on and off the reservation.

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3. Although Snohomish involved a Washington statute, the anti-encumbrance provision being construed was exactly the same as those in 18 U.S.C. §1162(b) and 28 U.S.C. §1360(b). Washington was able to enact state statutes embodying 18 U.S.C. §1162 and 28 U.S.C. §1360 under section 7 of P.L. 280, now repealed by 25 U.S.C. §1323(b) as to states which did not accept jurisdiction by April 11, 1968.

II

ENFORCEMENT OF STATE LAND USE LAWS AGAINST INDIANS ON INDIAN RESERVATIONS UNDER 18 U.S.C. §1162 IS INCONSISTENT WITH A PRIOR DECISION OF THIS COURT THAT STATUTES MUST GIVE FAIR WARNING THAT CONDUCT IS PUNISHABLE.

Willard Rhoades cannot be prosecuted for ignoring California Public Resources Code §4291 even assuming arguendo that 18 U.S.C. §1162 authorizes enforcement of section 4291 against an Indian on a reservation. Lanzetta New Jersey, 306 U.S. 451 (1939), held that the due process clause of the Fourteenth Amendment bars a state from punishing conduct which statutes do not fairly warn is criminal. In view of Snohomish, supra, and Opinion M-36768 of the Interior Department Solicitor, 18 U.S.C. §1162 cannot be said to give fair warning that section 4291 applies to an Indian or an Indian reservation.

CONCLUSION

For the above reasons, Willard Rhoades cannot lawfully be convicted of violating section 4291 of the California Public Resources Code. This petition for writ of certiorari should be granted, and Mr. Rhoades conviction should be reversed.

This need not expose everyone else to a fire hazard. The federal government may, if it considers natural vegetation a fire hazard, subject Indian reservation to section 4291 and similar laws in other states. Similarly the residents of the Big Bend Rancheria could adopt the state's law.

Dated: April 14, 1971

Respectfully submitted,

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By _____
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APPENDIX A

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

IN AND FOR THE THIRD APPELLATE DISTRICT

(Shasta)

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, vs. WILLARD RHOADES, Defendant and Appellant.	3 Criminal 5726 Filed: November 5, 1970

Defendant-appellant was found guilty of violation of Public Resources Code section 4291.[1] That section, so far as it is pertinent herein, requires any person who owns or controls any building in, upon or adjoining forest-covered lands to maintain a firebreak of a specified width around a building by removing flammable growth therefrom. (Id. subd. (a).) Section 4021 makes the wilful violation of section 4291 a misdemeanor. Defendant was convicted in the Justice Court of Burney Judicial District, Shasta County. The appellate division of the Shasta County Superior Court reversed the conviction. Reversal was not based upon any lack of evidence. Facts were conceded. There was no contention of other error--except one. Defendant is an Indian; the premises involved are Indian trust lands. The reversal in the superior court was based upon the court's holding that section 4291 does not apply to Indians living upon Indian trust lands. This

1. All code references herein, unless otherwise speficified, are to the Public Resources Code.

matter reaches us through certification under California Rules of Court, rule 61 et seq.

The federal government, and thefore Congress, has exclusive original jurisdiction over Indians and Indian trust lands. The jurisdiction rests fundamentally upon the provisions of article I, section 8, subdivision 3, of the United States Constitution which, among the powers granted to Congress, includes the power to regulate commerce with the Indian tribes. That seemingly slender reed (originally) has become an all-encompassing, impregnable, exclusive jurisdiction over all Indian affairs--by "long-continued legislative and executive usage and an unbroken current of judicial decisions." (41 Am. Jur. 2d, Indians, §50, p. 858.) "It is [however] within the power of Congress to provide that the laws of a state shall extend over and apply to Indian country." (Id. §63, p. 868.)

Public Law 280 (Act of August 15, 1953, 67 Stats. 588, 18 U.S.C. §1162) provides that certain states, of which California is one, shall have jurisdiction over offenses commited by Indians in certain Indian country. The trust lands on which the offense with which Rhoades was charged had been committed (Big Bend Rancheria) lie within that country. That statute, however, provides "[n]othing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property . . . belonging to any Indian. . . ." (Italics ours.) It was the position of the Shasta County Superior Court that the requirements of section 4291 constitute an encumbrance. We do not so regard it.

Putting to one side the applicability of the section to persons->householders, if you will-other than Indians, it cannot be questioned that section 4291 is a valid exercise of the state's police power. It is a

regulatory measure designed to preserve California's forests from conflagration. "Police power" has been described simply as the power of sovereignty to govern--the inherent reserved power of the state to subject individual rights to reasonable regulations for the general welfare. (See Western Indemnity Co. v. Pillsbury (1915) 170 Cal. 686, and generally 3 Witkin, Summary of Cal. Law (7th ed.) Constitutional Law, §158, p. 1968, and cases there cited.) Where the police power is legitimately exercised, uncompensated submission is exacted of the property owner if his property be either damaged, taken or destroyed. (Gray v. Reclamation District No. 1500 (1917) 174 Cal. 622, 638.) In the Gray case it was held that a temporary, prospective, possible inconvenience to a property owner during the process of the construction of a great statewide flood control project which when completed would be of great benefit not only to landowners as a whole but to the plaintiffs in particular was a proper exercise of the police power. Similarly, it can be said that the maintenance of an area free from combustible materials around buildings in forests is quite as much (if not more) for the benefit of the householder whose building or buildings will be directly involved as for the public at large. With that preliminary observation we turn to the specific question.

At the outset we note that the problem is one of statutory interpretation. By use of the word "encumbrance" in 18 United States Code section 1162 what did Congress intend? Starting with the premise that this law like all federal Indian laws must be construed in the manner most favorable to Indians (Elser v. Gill Net Number One (1966) 246 Cal.App. 2d 30, 36; Alaska Pacific Fisheries v. United States (1918) 248 U.S. 78, 89; 63 L.Ed. 138, 141; Choate v. Trapp (1912)

224 U.S. 665, 675, 56 L.Ed. 941, 946; Arenas v. Preston (9th Cir. 1950) 181 F.2d 62, 66), Rhoades places principal reliance upon Snohomish County v. Seattle Disposal Co. (Wash. 1967) 425 P.2d 22, in which the Supreme Court of Washington held zoning ordinances to be an encumbrance upon Indian lands within the meaning of 28 United States Code section 1360 (identical in its provisions in the respects material here with 18 U.S.C., §1162). It was a divided decision. The majority opinion defined "encumbrance" as "any 'burden upon land depreciative of its value, such as a lien, easement, or servitude, which, though adverse to the interest of the landowner, does not conflict with his conveyance of the land in fee. '" That definition accords with comprehensive definitions of "encumbrance" in the legal sense as contained in words and phrases definitions of the standard works on American Law (see e.g., 42 C.J.S., Incumbrance or Encumbrance--Legal Sense, p. 549). We doubt if even a definition as broad as that one would cover the restrictions of section 4291. As we view it, it would not be a burden upon Rhoades' land "depreciative of its value" to require that it be so maintained as not to be a hazard to forest lands in general and to Rhoades' lands in particular. We prefer the more common sense approach of dissenting judge Hale and the other dissenting judges in Snohomish. The dissenting opinion says (on pp. 27-28): "The broad general meaning employed by the majority . . . is not called for by the statute. The term 'encumbrance' should be given its more . . . precise meaning--one denoting a burden on the land and affecting the title thereto or one impairing the power of alienation such as a mortgage, lien, easement, lease, or other disability to fee ownership." In short, this court takes the position that by "encumbrance" Congress intended to protect the Indian against his own profligacy--against

those who throughout history have exploited the Indian. And we direct attention to the fact that in Public Law 280 the word "encumbrance" (in the restrictive sentence referred to above) is used in the same series as the word "alienation."

The brief of amicus curiae, "California Indian Legal Services," says on page 5 that the type of restriction embraced in Public Resources Code section 4291 "is anathema to traditional Indians like Willard Rhoades. It makes his land less valuable to him in both monetary and non-monetary terms." To the observation that to Mr. Rhoades his lands may seem intrinsically less valuable we can make no judgment. We have observed above that with the first term--"monetary value"--we disagree. On pages 10 and 11 comforting intelligence is conveyed: "This [i.e., right of Indians to disregard section 4291] need not expose everyone else to a fire hazard. The federal government may, if it considers natural vegetation a fire hazard, subject Indian reservations to section 4291 and similar laws . . . ." Meanwhile, we infer, the citizens of California and elsewhere must--while they await action by the federal government--suffer to see the forest and grasslands destroyed, as 400,000 acres were laid waste by fire in California recently at a cost of millions of dollars and a loss of irreplaceable trees. We take judicial notice that both accidental and uncontrolled debris burning around habitations is the source to which many forest fires can be traced. We are not to be understood as singling out Indians or Indian rancherias as offenders. We do not accept the proposition, however-advanced particularly by amicus curiae--that Congress by its use of "encumbrance" intended to give Indians or Indian trust lands (alone among a state's inhabitants) a free ticket

to endanger the state's forest and grass lands, an interpretation of the restrictive clause of Public Law 280 which is strained and unnecessary.

Neither do we find that section 4291 as applied to Indians violates due process--which is a second line trench argument advanced but without cognizable worth.

The judgment of the Shasta County Superior Court is reversed. The judgment of the Justice Court of Burney Judicial District is affirmed.

Pierce, P.J.

We concur:

Regan, J.

Mundt, J. pro tem.

APPENDIX B

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SHASTA

Hon. Richard B. Eaton, Judge

Date: January 27, 1970

#40350

THE PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff,

vs

WILLARD RHOADES,

Defendant.

NATURE OF PROCEEDINGS

MEMORANDUM OF DECISION

Defendant, a person of California Indian descent, maintains a building in the Big Bend Rancheria, an area in the mountains of Shasta County, which is held in trust by the United States for certain Indian families.

Defendant failed to maintain a clear 30 foot firebreak around that building. He was thereupon convicted on April 8, 1969, in the Burney Justice Court of the County of Shasta, of a violation of California Public Resources Code Section 4291, which requires that "any person that -- maintains a building in -- any mountainous area -- shall --, maintain around-- such building a firebreak by removing -- for a distance not less than 30 feet -- all flammable vegetation --."

Defendant appeals his conviction upon the sole ground that the statute cited has no application to Indian trust lands. This issue is governed by the following principles and authorities:

1. The Government of the United States of America, as sovereign, is lord paramount of the lands it owns. It also has exclusive constitutional jurisdiction over Indian affairs (Constitution, Article 1, section 8 (3)).

2. The United States, by statute (public law 280 of 1953 - 11 USCA Section 11(2), has consented that "the State of California" in "all Indian country within the State" shall have jurisdiction over "all offenses committed by Indians," except that "nothing in this section shall authorize the -- encumbrance -- of any real -- property -- belonging to any Indian -- that is held in trust by the United States."

3. It has been held that a local zoning ordinance is an "encumbrance" when applied to Indian trust land (Snohomish County vs Seattle Disposal Co. 425 P2d. 22 - 1967.)

4. The United States, in 1965, provided by regulation that none of the "laws of any State limiting -- or otherwise -- regulating -- the use of any real -- property shall be applicable to any such property leased from or held or used under agreement with and belonging to any Indian that is held in trust by the United States" unless "The Secretary of the Interior - in specific cases adopt or make applicable to Indian Land - any part of such laws." (25 CFR Section 1.4 - 1965.)

5. Thereupon, the Secretary did "adopt and make applicable -- the laws -- of the State of California -- limiting or otherwise regulating the use of -- real -- property leased

from or held under agreement with and belonging to any Indian -- that is held in trust by the United States -." (FR Doc. 65-7193 - July 8, 1965).

6. It has been held that a state mobile home park regulation is applicable to such a park on leased Indian trust land (County of San Bernadino v. LaMar, 271 ACA 821.)

7. Under authority of the Federal Regulation quoted, the Secretary has properly determined, as the LaMar case accurately holds, that California land use law applies to Indian trust lands leased from (or held under some other agreement with) Indians; However, the express language of the regulation, and of the Secretary's order, appears to have no application to Indian trust lands still retained and used by the Indians themselves.

8. As to such lands, the statute quoted still provides, as the Snohomish case held, that state land use law does not apply.

9. The fashion in which California Indians improve or fail to improve Indian trust lands in their occupancy is a matter of land use, and therefore remains as yet a matter for the United States to determine. Resulting fire hazards can only be a subject of protest by the California State Division of Forestry to the Office of Indian Affairs, U.S. Department of the Interior.

10. The Federal Government, in its own time and way, must decide (whether directly or by authority delegated to the states) the degree to which increasing congestion of population compels regulation of land use by Indians on rancherias.

11. The California statute quoted having no application to the Big Bend Rancheria, defendant cannot in this case be guilty of a violation of such statute.

The judgment of conviction entered in the Justice Court of Burney Judicial District is reversed and the case remanded to that Court, with instructions to dismiss the complaint.

RICHARD B. EATON
Judge of the Superior Court

APPENDIX C

IN THE JUSTICE COURT OF BURNEY
JUDICIAL DISTRICT

CONTINUATION

DOCKET 11-266

PEOPLE

VIOLATION 4291
PUBLIC RESOURCES CODE

vs.

WILLIARD RHOADES

AUGUST 11, 1969, 10:00 A.M. Defendant, RHOADES, appeared in court for sentencing. After reading and studying briefs summitted [sic] by California Indian Legal Services and the Shasta County District Attorneys office it is the opinion of this Court that it does have the jurisdiction over this case.
Therefore a fine of $125.00 and 90 days county jail sentence was imposed. 90 days to be suspended if $125.00 is paid by September 15, 1969 and that Defendant cleans his property to specifications of the U.S. Forest Service. Placed on Probation for 3 (three) years, not to be brought in for this violation again. Rhoades stated that he plans to appeal this decision, therefore was given time to pay the fine until September 15, 1969.

August 11, 1969

B. C. Covert, Judge

APPENDIX D

CLERK'S OFFICE SUPREME COURT
4250 STATE BUILDING
SAN FRANCISCO, CALIFORNIA 94102

January 28, 1971

DEAR SIR: I have this day filed Order

HEARING DENIED

In re: 3 Crim No. 5726

People

vs.

Rhoades

Respectfully,

Clerk

APPENDIX E

California Public Resources Code §4291
Cal Stats 1965, ch. 1144, §9.6, as amended
by Cal. Stats 1969, ch. 688, §1

Any person that owns, leases, controls, operates, or maintains any building or structure in, upon, or adjoining any mountainous area or forest-covered lands, brush-covered lands, or grass-covered lands or any land which is covered with flammable material, shall at all times do all of the following:

(a) Maintain around and adjacent to such building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

(b) Maintain around and adjacent to any such building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth which is located from 30 feet to 100 feet from such building or structure or to the property line, whichever is nearer, as may be required by the State Forester if he finds that, because of extra hazardous conditions, a firebreak of only 30 feet around such building or structure is not sufficient to provide reasonable fire safety. Grass and other vegetation located more than 30 feet from such building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

(c) Remove that portion of any tree which extends within 10 feet of the outlet of any chimney or stovepipe.

(d) Maintain any tree adjacent to or overhanging any building free of dead or dying wood.

(e) Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

(f) Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed of nonflammable material with openings of not more than one-half inch in size.

(g) The State Forester may adopt regulations exempting structures with exteriors constructed entirely by nonflammable materials, or conditioned upon the contents and compositio of same, he may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding said structures.

No such exemption or variance shall apply unless and until the occupant thereof, or if there be no occupant, then the owner thereof, files with the State Forester, in such form as the State Forester shall prescribe, a written consent to the inspection of the interior and contents of such structure to ascertain whether the provisions hereof and the regulations adopted hereunder are complied with at all times.

18 U.S.C. §1162 (67 Stat. 588)

(a) Each of the States or Territories listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State or Territory to the same extent that such State or Territory has jurisdiction over offenses committed elsewhere within the State or Territory, and the criminal laws of such State or Territory shall have the same force and effect within such Indian country as they have elsewhere within the State or Territory:

State or Territory of	Indian country affected
Alaska	All Indian country within the Territory
California	All Indian country within the State
Minnesota	All Indian country within the State, except the Red Lake Reservation
Nebraska	All Indian country within the State
Oregon	All Indian country within the State, except the Warm Springs Reservation
Wisconsin	All Indian country within the State

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall

deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

(c) The provisions of sections 1152 and 1153 of this chapter shall not be applicable within the areas of Indian country listed in subsection (a) of this section.

Fourteenth Amendment to Constitution

Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizen of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.